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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/555,399	07/27/2000	AKIMITSU TSUKUDA	599-203P	2005

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EXAMINER

RESAN, STEVAN A

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 11/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/555,399

Applicant(s)

TSUKUDA ET AL.

Examiner

Stevan A. Resan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-3,5,7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hachiboshi et al in view of Suwarnasarn for the reasons of record and further in view of Asakura et al US 4645702.
3. Hachiboshi et al in view of Suwarnasarn was discussed in the prior office action. While no claim is directed to a specific structure aromatic polyamide the examiner has applied Asakura et al for teaching another aromatic polyamide.

Finding the members of a class of prior art polymers which are best suited for a particular purpose is not a patentable invention. Ex parte Fauser (POBA 1953) 128 USPQ 156.

With respect to newly added claim 9: process limitations carry no weight in article claims unless they can be shown to produce a patentably distinct article. This process limitation appears only to apply to a specific class of aromatic polyamides stretched at high velocities.

If applicants amend claim 1 to include the specification definition of "aromatic polyamide" (i.e. a polymer containing at least 50 molar percent of a structure having repeating units I or II as defined at page 6 line 17 through page 7 line 12) and incorporate the limitation of claim 9 then claim 1 would be deemed allowable .

4. Applicant's arguments filed 25 September 2003 have been fully considered but they are not persuasive.

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The examiner has withdrawn the rejection under 35 USC 102, however the claims remain rejected under 35 USC 103.

Applicants argue that Hachiboshi et al '802 fail to disclose a tensile modulus of at least 7 GPa citing one of the examples. However Hachiboshi et al '802 is not limited by the examples. The tensile modulus is determined by the polymer chemical and physical structure (the physical structure being due to orientation conditions.). While the Youngs Modulus of example 7 in the TD direction is 5.4 GPa it would have been obvious to one of ordinary skill in the art that this could be increased within the parameters taught by Hachiboshi et al '802. The polymer used in examples 6 and 7 was a 99% metaxylylene adipamide copolymer. Hachiboshi et al '802 teaches however that aromatic amides may be used (Col 2 lines 3-12). Motivation for substitution of equivalents need not be given. Nevertheless Asakura et al has been added to the rejection for teaching that one of the polymers suggested by Hachiboshi et al '802 can clearly have Youngs modulus values which exceed the claimed 7 GPa.

Applicants also argue that Hachiboshi et al '802 fail to disclose or suggest an aromatic polyamide as claimed in the instant invention pointing to the specification as the definition for an aromatic polyamide. However the claims must be broadly construed and limitations of the specification may not be read into the claims. While applicants may be their own lexicographers they may not define contrary to a definition accepted in the art. Applicants characterization of the polymers described by Hachiboshi is not correct. The examiner is relying on the disclosure and is not limited by the claims. With respect to the stretching temperature higher Tg polymers must be stretched at higher temperatures as is recognized in the art. Note that the aromatic polyamides of Asakura were stretched at 300 C.(Col 9 line 3).

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stevan A. Resan whose telephone number is (703) 308-4287. The examiner can normally be reached on Tues-Fri from 7:30AM to 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau, can be reached on (703) 308-2367. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7718


STEVAN A. RESAN
PRIMARY EXAMINER